

An Evaluation of the Firearm Surrender Pilot Project in Wisconsin:
Final Report

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Executive Summary

In the State of Wisconsin, when a domestic violence or child abuse restraining order (injunction) is granted, it is a legal requirement that the respondent surrender any firearms that he or she owns or possesses to the sheriff or to another person who is approved by the court. However, until now this law has not been systematically enforced in Wisconsin. This report provides an evaluation of the State of Wisconsin firearm surrender protocol (procedure) as it was implemented in Outagamie, Sauk, Waushara, and Winnebago counties in 2010 and 2011. The evaluation is primarily process-oriented and, as such, was designed to document the implementation of the new firearm surrender protocol. Quantitative data on injunction cases from each county ($N = 676$) were collected and analyzed in order to specify patterns in case processing and outcomes. Interviews were conducted with victim advocates and agency representatives ($N = 34$) in each county to assess issues with the implementation of the protocol. The goal of the evaluation was to provide information about the implementation of the firearm surrender protocol which may be considered by other counties and entities prior to statewide implementation.

Analyses revealed similar implementation of the protocol across all four counties, with few exceptions noted. However, there was considerable variation across counties in the number of injunction cases processed and the outcomes of those cases. Specifically, in Winnebago County there were 76 domestic abuse injunctions granted with 19 resulting in the surrender of firearms (25%), in Outagamie County there were 69 domestic abuse injunctions granted with 10 resulting in the surrender of firearms (14.5%), in Waushara County there were 22 domestic and child abuse injunctions granted with two resulting in

the surrender of firearms (9.1%), and in Sauk County there were 45 domestic and child abuse injunctions issued with three resulting in the surrender of firearms (6.7%).

Across the four counties, there were two major surprises: One was that the protocol was not nearly as difficult or as onerous to implement as was first expected. The other surprise was that so few firearms were surrendered after the implementation of the protocol. Interestingly, that the protocol was relatively easy to implement may be related to the fact that surprisingly few guns were surrendered. It is possible that had there been more firearms surrendered, there may have been more implementation issues. Numerous explanations that may account for the frequency of firearm surrender are discussed in the full report.

With regard to implementation issues, although no significant barriers to implementation were highlighted by the agency representatives in any of the counties, several issues were noted. Briefly, for example:

- Exceptional cases cause difficulties. For example, in one case a firearm was brought into the courthouse in order to surrender it. This incident led to concerns about procedures regarding the surrender of firearms. In another case, a respondent lived in a house where there were firearms but those firearms were not owned by the respondent. These sorts of situations have required the exercise of best judgment in resolving the issue at hand.
- According to agency representatives in some of the counties, the early stages of the injunction process (i.e., TRO applications, hearings) may proceed more smoothly when a victim advocate is involved in the process.

The victim advocate can guide and educate petitioners about the process and its requirements. It was estimated by the victim advocates in each of the counties that approximately 30 to 40 percent of petitioners seek their assistance prior to initiating the injunction process.

- Some agency representatives expressed concern about the role, background, and verification of the third party in firearm surrender. In particular, although it is a legal option available to respondents, there was concern about the security of allowing a friend or relative to maintain possession of the respondent's firearms.
- Agency representatives in each of the counties, to one degree or another, expressed concerns about the collection of accurate and truthful information from respondents and petitioners about guns owned or possessed by respondents and how to best deal with situations where respondents and petitioners provided conflicting information about the respondents' possession/ownership of firearms. No clear solution to this issue was provided by agency representatives although, as noted in the full report, some counties have made adjustments to potentially assist in this regard.
- Coordination issues between the offices involved in the injunction and firearm surrender process was mentioned repeatedly by agency representatives as being critical to the proper implementation and execution of the firearm surrender protocol. Pre-planning, clear lines of communication, and clear delineations of responsibilities among the

individuals and offices involved in the operation of the protocol was highlighted by agency representatives as being extremely important. This was particularly true with regard to communication between the court and the sheriff's department.

- Agency representatives repeatedly spoke of the absolutely critical role that court commissioners play in the process. The proper implementation of the protocol rests primarily with the court commissioners (and/or judges). Their discretion largely determines the process and the outcome of the case. It was suggested by agency representatives in several of the counties that court commissioners play a central role in the planning process regarding the design and implementation of the protocol. Education and training for all individuals involved in the proper implementation of the protocol/law was also viewed by agency representatives as critical.

With regard to the benefits of the protocol, agency representatives and victim advocates believed that the removal of firearms from even one abuser is a significant outcome and further, that the benefits of firearm surrender are not limited to the actual surrender of firearms. Agency representatives in each county explained that the protocol requires greater scrutiny on guns and gun ownership among respondents. With the protocol in place, firearms are now recognized and understood as an important issue and there is now follow-up on the surrender of firearms. This greater legal attention on firearms may put the respondent on notice, and may prevent further abuse. Victim advocates in each of the counties were also very supportive of the protocol and, based on comments received from victims, thought that the new procedures made victims feel

safer, gave them peace of mind, and enhanced their actual safety. In addition, the firearm surrender law and how it is structured within the larger injunction process may empower petitioners and allow them more discretion and control. With the protocol, victims still have discretion as to how to proceed with the injunction. The law may empower the victim as he/she can control, to some degree, firearm possession by the respondent. The fact that the victim has the ability to report a firearm, even if he or she does not, may represent a significant benefit of the new procedures. A final benefit highlighted by some agency representatives was that the presence of law enforcement personnel in court during injunction and firearm hearings provided a sense of safety to victims. Agency representatives believed, based on petitioners' comments, that law enforcement presence significantly enhanced the safety (and perceptions of safety) of petitioners.

As explained by agency representatives, and as also discussed in more detail in the full report, the benefits of the protocol come with relatively few costs. The new procedures require minimal court time and no additional significant costs to law enforcement. Overall, the consensus among agency representatives and victim advocates is that enforcement of the law via the protocol is beneficial and positive.

Introduction

In the State of Wisconsin, when a domestic violence or child abuse restraining order (injunction)¹ is granted, it is a legal requirement that the respondent surrender any firearms that he or she owns or possesses to the sheriff or to another person who is approved by the court² (see Wisconsin Statutes, Sec. 813.12 (4m), 813.122 (5m) (a), and 813.125 (4m)).³ These laws are congruent with federal law and have been in place for some time; however, these laws have not been systematically enforced in Wisconsin. A 2008 survey of Wisconsin sheriff's departments conducted by the Justice Committee of the Governor's Council on Domestic Abuse found that 70 percent of counties did not automatically follow up to ensure that abusers had complied with court-ordered mandatory surrender of firearms and 16 percent of the counties did not have any policies or procedures in place regarding the surrender of firearms in domestic violence cases.

In 2010, the State of Wisconsin Office of Justice Assistance (OJA) awarded \$150,000 to four counties -- Outagamie, Sauk, Waushara, and Winnebago⁴ -- to implement a Firearms Surrender Protocol, developed by the OJA Violence Against Women Advisory Committee and the Governor's Council on Domestic Violence Surrender Protocol Committee. The protocol consists of procedures to be used in civil

¹ In this report, the terms "restraining orders" and "injunctions" are used interchangeably.

² For harassment injunctions, the judge or circuit court commissioner may prohibit the respondent from possessing a firearm based on "clear and convincing evidence" that the respondent may use a firearm to cause physical harm to another or to endanger public safety. For domestic violence and child abuse injunctions, the order is required.

³ See Appendix A for relevant excerpts of the Wisconsin State Statutes.

⁴ Outagamie, Sauk, Waushara, and Winnebago Counties were the only counties that applied for the grant funds. As of the date of this report, approximately 50 percent of the awarded funds have been spent by the counties.

and criminal cases involving domestic violence, child abuse, and harassment injunctions to enforce the laws regarding the surrender of firearms from respondents in these cases. In particular, the protocol provides due process and notice for respondents before firearms are surrendered, explains responsibilities to third parties who are willing to hold a respondent's firearms, and establishes procedures for law enforcement when executing a warrant to seize firearms. The protocol was developed with the input of judges, district attorneys, county court clerks, police officers, sheriffs, victim services providers, human services agencies, Office of State Courts, Office of Justice Assistance (OJA), Department of Justice, and the Department of Corrections. The protocol introduces well-established practices in courts from other states that follow the requirements of existing federal laws.⁵

The Problem

Intimate partner violence (IPV) is a serious and perplexing problem. Approximately 1.3 million women and 835,000 men are physically assaulted by an intimate partner annually in the United States (Tjaden and Thoennes, 2000). The 1995-1996 National Violence Against Women survey indicated that 25 percent of women are physically or sexually assaulted by intimate partners in their lifetimes (Pastore and Maguire, 2006; Tjaden and Thoennes, 2000). Further, intimate partner homicides make up 40 to 50 percent of all murders of women in the United States (Campbell et al., 2003). An offender's access to a gun increases the chances that the IPV will be lethal. Studies

⁵ The standard forms associated with firearm surrender can be located at <http://oja.wi.gov/docview.asp?docid=17554&locid=97>

have shown that domestic-related assaults involving firearms are 12 times more likely to result in death than those that do not involve firearms (Saltzman et al., 1992).

Restraining orders that prohibit (or limit) contact between an abuser and a victim are intended to prevent future instances of IPV. The violation of a restraining order carries criminal penalties for the offender (see Wisconsin Statutes 813). In this way, the restraining order may deter an offender from committing future instances of IPV (Benitez et al., 2010). Indeed, research shows that restraining orders are associated with a reduced risk of violence toward the victim (Benitez et al., 2010). However, there is also a substantial chance that a restraining order will be violated, with the greatest risk being soon after the initiation of the order. In fact, the issuance of a restraining order may lead to the escalation of violence against the victim (Benitez et al., 2010; Moracco et al., 2010). Clearly, restraining orders are not a panacea to the problem of IPV.

The additional legal requirement that abusers who are subject to a restraining order must surrender their firearms (and not possess firearms), and the corresponding enforcement of that law, may further the benefits of restraining orders and further reduce the likelihood of future incidents of IPV, particularly *lethal* IPV. Simply stated, the firearm surrender provision may add value to restraining orders. The legal order to surrender firearms, and the enforcement of that order, may prevent lethal violence through an incapacitation effect; the offender cannot use a gun in an IPV incident if he does not possess one. Obviously, a motivated offender could search out and acquire a firearm for this purpose, but the time it would take for the would-be offender to obtain a firearm may be enough to interrupt the emotion for the action. Although a systematic

examination of this “theory” was beyond the scope of this evaluation, this is the ultimate intended effect of the firearm surrender provision.

Purpose of the Study

This report provides an evaluation of the State of Wisconsin firearm surrender protocol (procedure) as it was implemented in Outagamie, Sauk, Waushara, and Winnebago counties. The evaluation is primarily process-oriented and, as such, was designed to document the implementation of the new firearm surrender protocol. Quantitative data on injunction cases from each county were collected and analyzed in order to specify patterns in case processing and outcomes. Interviews were conducted with agency representatives in each county in order to identify strengths, difficulties, and successes in implementation, lessons learned in implementation, and areas in need of additional attention. To the extent possible, the evaluation also examines the impact the new procedures have had on law enforcement and court operations, and the impact the procedures have had on victims, based primarily on the perceptions of victim advocates. The goal of this evaluation was to provide information about the implementation of the firearm surrender protocol which may be used by other counties and entities prior to statewide implementation.

Method

The evaluation began in February, 2011 and concluded in February, 2012. It was conducted by Dr. Steven G. Brandl, Ph.D., an Associate Professor in the Department of Criminal Justice at the University of Wisconsin-Milwaukee. The evaluation consisted of

two primary activities: (1) interviews of key participants involved in the implementation and operation of the protocol in each county (e.g., court commissioners, victim service providers, sheriff's department personnel, etc.) and (2) quantitative analysis of injunction hearing and firearm surrender case data that were collected by each participating county and submitted to the OJA.

Description of Pilot Counties

It is useful to first consider the operation of the protocol in relation to the characteristics of the four counties in which it was implemented. Table 1 provides descriptive information on these four counties.

Table 1. Select Characteristics of the Four Pilot Counties

Characteristic	Outagamie	Sauk	Waushara	Winnebago
Population	176,965	61,976	24,496	166,994
% under 18	25.1	23.8	19.7	21.6
% minority	8.7	5.5	6.1	7.5
% w/ BS degree	25.2	19.6	12.5	24.7
Median Income	\$55,106	\$50,566	\$43,844	\$47,846
Land Area (sq mi)	637	831	626	434

Source: 2010 U.S. Census

As seen in Table 1, Outagamie has the largest population with 176,965 persons. Of the four counties, Outagamie County also has the largest proportion of the population under the age of 18, as well as the largest non-white and college educated (bachelor's degree) population. Outagamie County also has the highest median household income (\$55,106). The largest city in the county is Appleton, the county seat, which has a

population of 72,623. Outagamie County is located in eastern central Wisconsin approximately 100 miles northwest of Milwaukee.

Of the four counties, Waushara County has the smallest population with 24,496 persons as well as the smallest proportion of college educated persons. It has the lowest median household income of the counties (\$43,844). The largest city in the county is Wautoma, the county seat, which has a population of 2,218. The county is uniformly rural. Waushara County is located in central Wisconsin approximately 80 miles north of Madison.

Winnebago County is similar in size and other characteristics to Outagamie County, although the median household income is notably lower (\$47,486). The largest city in the county is Oshkosh (with a population of 66,083) which is also the county seat. Winnebago County is south of, and adjacent to, Outagamie County. It is approximately 75 miles northwest of Milwaukee.

Sauk County is rather unique among the four counties. As seen in Table 1, the characteristics of the county are not closely comparable to Waushara County or to Outagamie or Winnebago Counties. The largest city in Sauk County is Baraboo, the county seat, which has a population of 12,048. Sauk County is located south-central western part of the State, approximately 40 miles northwest of Madison.

Site Visits and Interviews

Each county was visited twice and numerous interviews were typically conducted during each visit. The first site visits were conducted in April and May, 2011. The initial visits were conducted while several of the counties were in the early stages of

implementing the firearm surrender protocol and, as such, the interviews focused primarily on documenting the degree of implementation of the new firearm surrender process in each of the counties, the modifications and changes that were being made to the protocol in each of the counties, and the obstacles and successes in the early implementation of the new procedures.

The second set of site visits was conducted in September and October, 2011. The intent of these visits and interviews was to collect more detailed information from the individuals who were responsible for implementing and/or working with the protocol about the operations of the project and the perceptions of project's effectiveness and implementation.

Specifically, in each county, the following individuals were interviewed:

In Outagamie County:

- Court Commissioner Lisa Beth Vander Maazen
- Assistant District Attorney Amy Menzel
- Sheriff's Deputy Lynne James
- Sgt. Michael Fitzpatrick
- Sgt. William Tedlie
- Staff Sgt. James Duchow
- Barb Bocik, Clerk of Court Office
- Mary Anne Herwig, Clerk of Courts Office
- Michelle Femal, Probation Agent
- Wendy Gehl, Legal Advocate, Harbor House

In Sauk County:

- Domestic Violence Liaison Julia Persike
- Chief Deputy Kevin Fults
- Bill Steinhorst, Sheriff's Department Court Security
- Judge Everson
- Court Commissioner Leo Grill
- Vicki Meister, Clerk of Courts
- Alicia Nall, Attorney/Advocate, Hope House

In Waushara County:

- Clerk of Circuit Court Melissa Zamzow
- Deputy Clerk of Courts Tracy Piencikowski-Gyrion
- Patrol Lieutenant Jeffrey Nett
- Court Commissioner Marc Bickford
- Jill Wilbert, Domestic Violence Victim Advocate, CAP Services

In Winnebago County:

- Court Commissioner Dave Keck
- Fran Price, Legal Advocate, Christine Ann Center

In total, 34 interviews were conducted with 24 agency representatives.

Interviews with victim service providers/advocates in each county were conducted during the second set of site visits. Due to the resource constraints on the evaluation, the difficulties of and concerns about safely contacting and interviewing victims about their actions in obtaining restraining orders, and the potentially sensitive nature of the information from victims, a decision was made early on in the evaluation process that victims would not be interviewed directly; instead, victim service providers were asked to inquire about how the procedures are viewed by victims and then provide this information in the evaluation interviews. Specifically, the evaluation interviews with the victim service providers focused on three areas: (1) understanding how the procedures may affect victims' (petitioners) decisions (e.g., to pursue an injunction and/or what type), (2) petitioners' honesty in disclosing respondents' firearms, and (3) petitioners' feelings of safety as a result of the new procedures and requirements.⁶ Additional information was also gleaned about petitioners' assessments of the firearm surrender provision from court commissioners and sheriff's department personnel who had contact

⁶ See Appendix B for a copy of the communication sent to the victim service providers requesting the collection of such data.

with them. Of course, this information is most important because the new procedures are ultimately about improving the lives of victims.

Analysis of Injunction and Firearm Surrender Case Data

As part of the grant requirements, agency representatives in each of the four counties were required to collect basic quantitative data (tallies) on temporary restraining orders that were applied for, injunctions that were granted, and firearms that were surrendered. Typically this task was performed by the clerk of courts office in each county. The case data were submitted on a quarterly basis to the Office of Justice Assistance in Madison. At OJA, the data were compiled, converted to SPSS (Statistical Package for the Social Sciences) and provided to the evaluator for analysis at the conclusion of the project.

Specifically, the following data were collected for each case:

- Was a temporary restraining order (TRO) issued?
- What type of TRO was issued? Harassment? Domestic Abuse? Child Abuse?
- Was an injunction issued?
- What type of injunction was issued?
- Was a domestic abuse TRO changed to a harassment injunction?
- Did the petitioner report that the respondent possessed firearms?
- Did the respondent report that he possessed firearms?
- Were firearms ordered surrendered by the judge/court commissioner?
- Were firearms actually surrendered?
- How many firearms were surrendered?
- To who were the firearms surrendered? Law enforcement? A third party? Or was the firearm sold?
- If surrendered to a third party, who was it? A relative? A friend? Someone else?
- If surrendered to a third party, did that person take possession of the firearm?
- How many firearm surrender hearings were scheduled in this case? How many were conducted? How many were cancelled?

- Was a warrant issued in response to the failure to surrender firearms?
- Was a law enforcement officer present at the firearm surrender hearing?

Findings

An Overview of the Injunction and Firearm Surrender Process

The process of obtaining an injunction and the process involved in the surrender of firearms is quite consistent across counties. The process is briefly described here with notable variations across county discussed later in the report.

The process typically begins with the petitioner requesting and completing paperwork obtained from the clerk of courts office, with or without the assistance of a victim advocate. When the completed forms are submitted to the clerk, the clerk contacts a court commissioner or judge for review. This review for a temporary restraining order (TRO) is typically done immediately or within hours of the submission of the associated forms by the petitioner. If the court grants a temporary restraining order at that time, the requisite forms are filed with the clerk of courts and an injunction hearing is scheduled to occur within 14 days. The Sheriff's Department is responsible for then informing the respondent of the injunction hearing by serving the respondent the official papers notifying him/her of the date and time of the injunction hearing.

In each of the counties, the injunction hearing is most often presided over by a court commissioner. In each case, a standard "statement of firearms" form that lists the firearms owned or possessed by the respondent is required to be completed by the respondent and, in most counties, by the petitioner. If the petitioner does not attend the injunction hearing, then the hearing is cancelled and the case dismissed. Similarly, if the injunction is denied, the process ends. If the respondent has been served but does not

attend the injunction hearing, the hearing proceeds. If a domestic or child abuse injunction is granted as a result of the hearing, and the evidence (firearms surrender disclosure forms and associated testimony) indicates that firearms are owned and/or possessed by the respondent, then the firearms would be ordered to be surrendered by the court and a “firearms surrender hearing” would be scheduled. In this case, if the respondent does not attend the injunction hearing, he/she would typically be notified of the date/time of the firearm surrender hearing via the mail. If the respondent does not show up for the firearm surrender hearing, a warrant may be issued for his or her arrest. If a domestic or child abuse injunction is granted but there are no firearms owned or possessed by the respondent, then of course, there would be no need for firearms to be surrendered or for a firearms surrender hearing. If the injunction hearing is for a harassment injunction, and if the court finds “clear and convincing evidence” that the respondent may use a firearm to cause physical harm to another or to endanger public safety, then the court would require the surrender of firearms and a firearms surrender hearing would be scheduled. Firearm disclosure forms may not be required to be completed by the petitioner (or the respondent) for harassment injunctions. In any case, if there are conflicting statements from the petitioner and respondent about the respondent’s ownership of guns, and if the issue is not resolved in court, the case could be referred to the district attorney’s office. Upon order, if the respondent surrenders firearms to the sheriff’s department and provides the receipt as proof of surrender to the court prior to the date of the firearms surrender hearing, then the firearms surrender hearing would be cancelled. The sheriff’s department would hold the firearm as evidence and an in-house inventory (non-electronic) record would be kept on the firearm.

The alternative to surrendering firearm(s) to the sheriff's department is surrender to a third party. If this is the desired option for the respondent, then the third party would be required to attend the firearm surrender hearing. A criminal history background check would typically be done on the third party. During the hearing, the third party would be informed of the legal consequences of returning the firearm to the respondent.

Specifically, that it is a violation of Section 941.29 (1) (f) or (g) for a person to possess a firearm if there is an injunction prohibiting it, and that subsection (4) makes furnishing a firearm to anyone subject to that restriction guilty as a party to the crime (also see Section 813.12 (4m) (2)). In addition, there may be testimony at the firearm surrender hearing from the petitioner or others that a particular third party should not be trusted with the respondent's firearms. The court would make a ruling on that issue as well. Another possibility is that the respondent would come to the firearms surrender hearing and state that he/she no longer possesses the firearms in question. In this case, the court would require proof of sale or proof that the firearms are no longer possessed by the respondent.

After the injunction expires, the respondent can make a request to the court to reclaim the previously surrendered firearms. This request would then be transmitted to the sheriff's department where the sheriff's department would conduct a criminal history background check on the respondent. If the respondent is legally able to own and possess firearms, then a court commissioner would make the final determination as to the return of the gun(s). The petitioner may also have input into this final determination. The petitioner would be notified of the final order by the clerk of courts office.

Injunction and Firearm Surrender Case Data

Analyses that describe the processing of temporary restraining order (TRO), injunction, and firearm surrender cases were conducted and the results of those analyses are presented here. Described first is the protocol implementation timeframe for each county. Second, data on the processing of cases in all four counties combined is presented. There is important variation across the counties in case processing patterns; as a result, the results specific to each county are also presented. The county specific analyses are more detailed than the aggregate analyses.

Table 2 shows the implementation timeframe for case processing and data recording in each county. While the budgetary start date was the same for each county (March 1, 2010), some counties put the protocol in place before others. Further, the time period in which cases were actually recorded for the purposes of this evaluation also varied. Accordingly, the number of months of case data varies by county.

Table 2. Implementation and Data Recording Time Frame for the Counties

	Protocol In Place	1 st and Last Case Recorded	Months of Data Recording
Outagamie	Jan 2011	Jan 2011-Dec 2011	12
Sauk	Nov 2010	Dec 2010-Dec 2011	13
Waushara	May 2010	May 2010-Dec 2011	20
Winnebago	Feb 2010	Oct 2010-Dec 2011	15

The differences in the number of months in which cases were recorded across counties needs to be considered when evaluating the number of TROs and injunctions issued in each county (see below).

With regard to the aggregate processing of cases in all four counties combined, there were a total of 676 applications for a temporary restraining order (see Figure 1). Of these applications, 662 (97.9%) were granted. Of the TROs that were granted, most were for domestic abuse (346; 52.3%), followed by harassment (272; 41.1%) and child abuse (44; 6.6%).

Of the 662 TROs that were granted, an injunction was issued in 359 of them (54.2%). Again, most injunctions were for domestic abuse (199; 55.4%) followed by harassment (147; 40.9%) and child abuse (13; 3.6%). Recall that firearm surrender is mandatory in domestic abuse and child abuse injunctions; it is judicially discretionary in harassment injunctions. As such, it is important to highlight that there were 10 cases where a domestic abuse or child abuse TRO was subsequently converted to a harassment injunction. In other words, 10 (of the 147; 6.8%) harassment injunctions originally were applied for as domestic abuse or child abuse TROs.

In 41 of the 212 domestic abuse and child abuse injunctions (19.3%) the petitioner and/or respondent reported that the respondent possessed firearm(s). In 197 of these 212 cases, the court ordered the surrender of firearms (92.9%). Of the 147 harassment injunctions, firearms were reported in 12 of the cases (8.2%). Firearms were ordered surrendered by the court in 12 of the 147 cases (8.2%).

Finally, firearms were actually surrendered in 33 of the 212 domestic abuse and child abuse injunctions (15.6%) and in 3 of the 147 harassment injunctions (2.0%). In total, 36 cases involved the surrender of firearms.

Figure 1. Injunction Processing in All Counties Combined

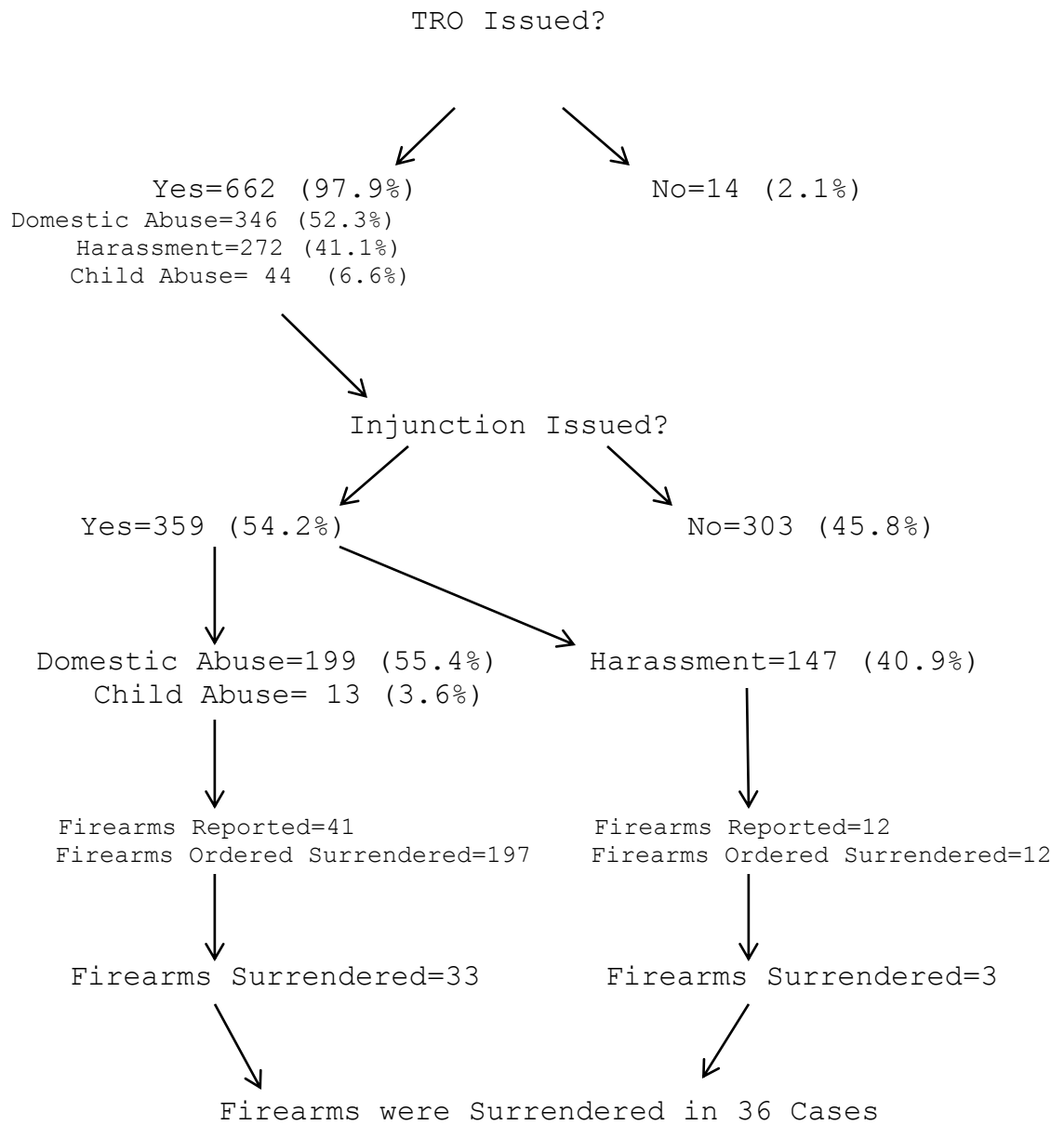
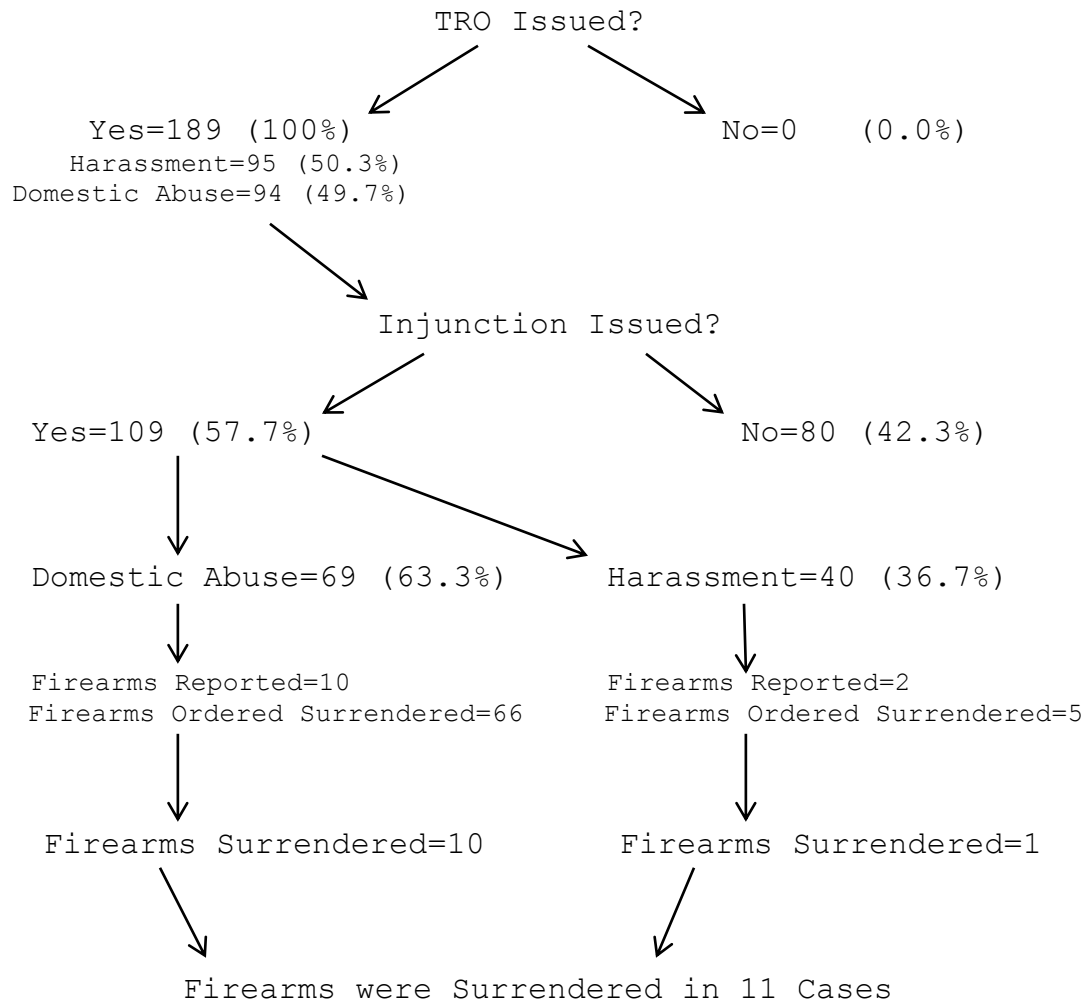


Figure 2 shows how the injunction cases were processed in Outagamie County. From February 7, 2011 to December 31, 2011, there were 189 applications for a temporary restraining order filed in Outagamie County. All of these applications resulted in a TRO being issued. The TROs were about evenly split: 95 were for harassment (50.3%) and 94 (49.7%) were for domestic abuse.

An injunction was issued in 109 of the 189 TROs (57.7%). Most injunctions were for domestic abuse (69; 63.3%), 40 (46.7%) were for harassment. No domestic abuse TROs were converted to harassment injunctions.

In 10 of the 69 domestic abuse injunctions (14.5%) the petitioner and/or respondent reported that the respondent possessed firearm(s) (i.e., the respondent and the petitioner both reported respondent firearms in the same ten cases). In 66 of the 69 domestic abuse cases, the court ordered the surrender of firearms (95.7%). Of the 40 harassment injunctions, firearms were reported in 2 of the cases (5.0%) (the respondent and the petitioner both reported respondent firearms in the same two cases). Firearms were ordered surrendered by the court in 5 of the 40 harassment cases (12.5%).

Figure 2. Injunction Processing in Outagamie County



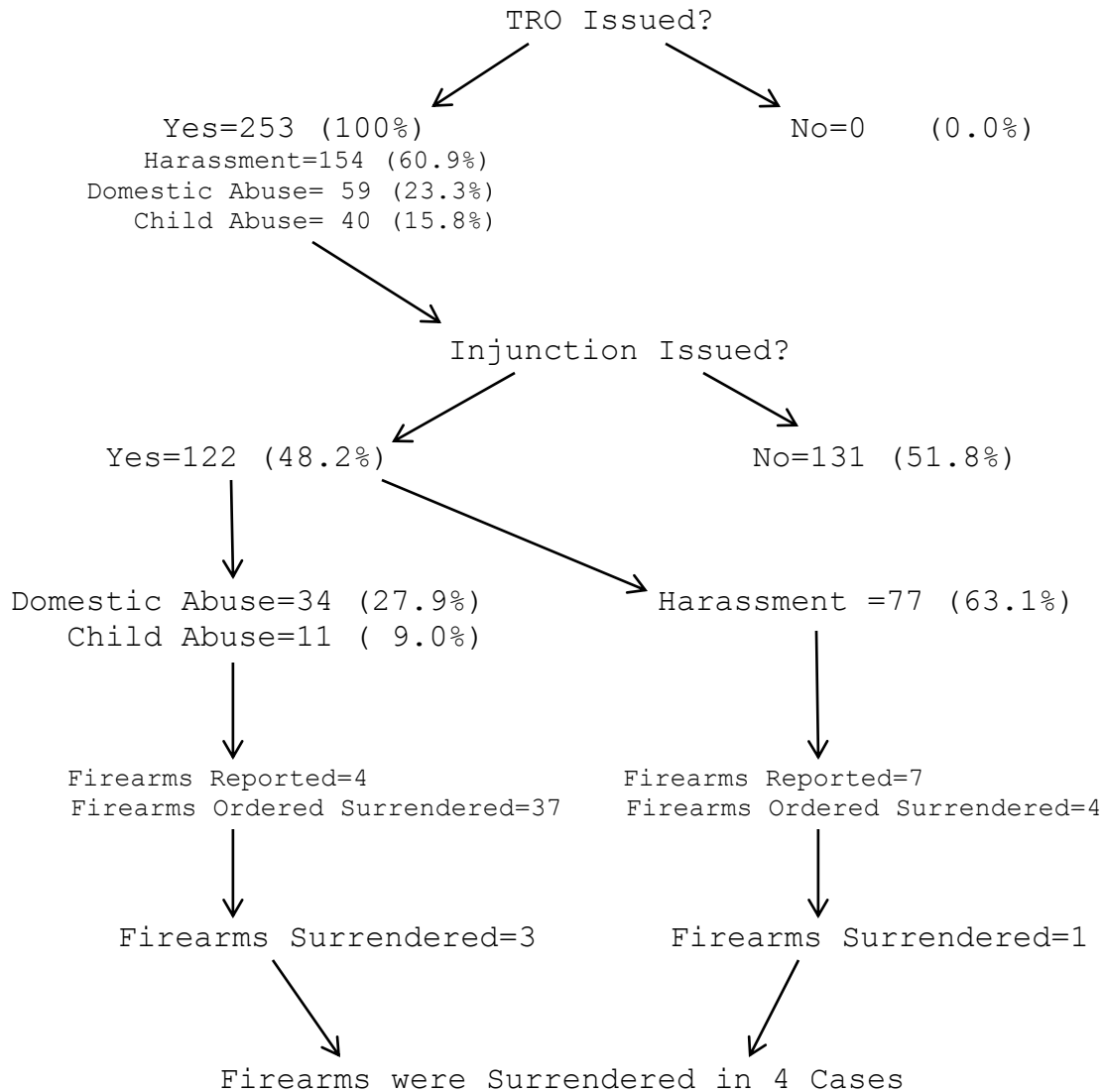
Firearms were actually surrendered in 10 of the 69 domestic abuse injunctions (14.5%) and in 1 of the 40 harassment injunctions (2.5%). In total, 11 cases involved the surrender of firearms.

In addition:

- The 11 cases where firearms were surrendered resulted in the surrender of 16 guns.
- Guns were surrendered to the Outagamie County Sheriff's Department in 6 of the cases and to a third party in the other 5 cases.
- Of the 5 cases where guns were surrendered to a third party, 3 were to a relative and 2 were to a friend.
- In 4 cases, the firearm(s) were surrendered prior to the injunction hearing, in 5 cases they were surrendered after the injunction hearing but before the surrender hearing, and in 2 cases they were surrendered after the surrender hearing.
- In total, 5 firearm surrender hearings were conducted (2 additional hearings were scheduled but cancelled).
- A Sheriff's Department deputy was present at all five firearm surrender hearings.
- Representatives in Outagamie County reported that approximately 24 guns (from an unknown number of cases) were surrendered by respondents during the year prior to implementation of the protocol (2010).

Figure 3 shows how injunction cases were processed in Sauk County. From November 2010 to December 31, 2011, there were a total of 253 applications for a temporary restraining order in Sauk County. All of these applications were granted a TRO. Most of the TROs were for harassment (154; 60.9%) followed by domestic abuse (59; 23.3%) and child abuse (40; 15.8%). An injunction was issued in 122 of the 253 TROs that were obtained (48.2%). Again, most injunctions were for harassment (77;

Figure 3. Injunction Processing in Sauk County



63.1%), followed by domestic abuse (34; 27.9%) and child abuse (11; 9%). One of the 59 domestic abuse TROs (1.7%) was converted to a harassment injunction.

In 4 of the 45 (8.9%) domestic abuse and child abuse injunctions, the petitioner and/or respondent reported that the respondent possessed firearm(s) (i.e., the petitioner and respondent reported firearms in 2 of the same cases, in one case the respondent reported firearms but the petitioner did not, and in one case the petitioner reported firearms but the respondent did not). In 37 of the 45 cases (82.2%), the court ordered the surrender of firearms. Of the 77 harassment injunctions, firearms were reported in 7 of the cases (9.1%) (the petitioner reported firearms in the 7 cases, the respondent reported firearms in 6 of these cases). Firearms were ordered surrendered by the court in 4 of the 77 (5.2%) harassment cases.

Firearms were actually surrendered in 3 of the 45 (6.7%) domestic abuse and child abuse injunctions and in 1 of the 77 (1.3%) harassment injunctions. In total, 4 cases involved the surrender of firearms.

In addition:

- The 4 cases where firearms were surrendered resulted in the surrender of 9 guns.
- Guns were surrendered to the Sauk County Sheriff's Department in 3 of the cases. In one case the firearm was sold.
- In one case, the firearm(s) were surrendered prior to the injunction hearing, in the other 3 cases they were surrendered after the injunction hearing but before the surrender hearing.
- In total, 4 firearm surrender hearings were conducted (1 additional hearing was scheduled but cancelled).
- A Sheriff's Department deputy was present at all 4 firearm surrender hearings.

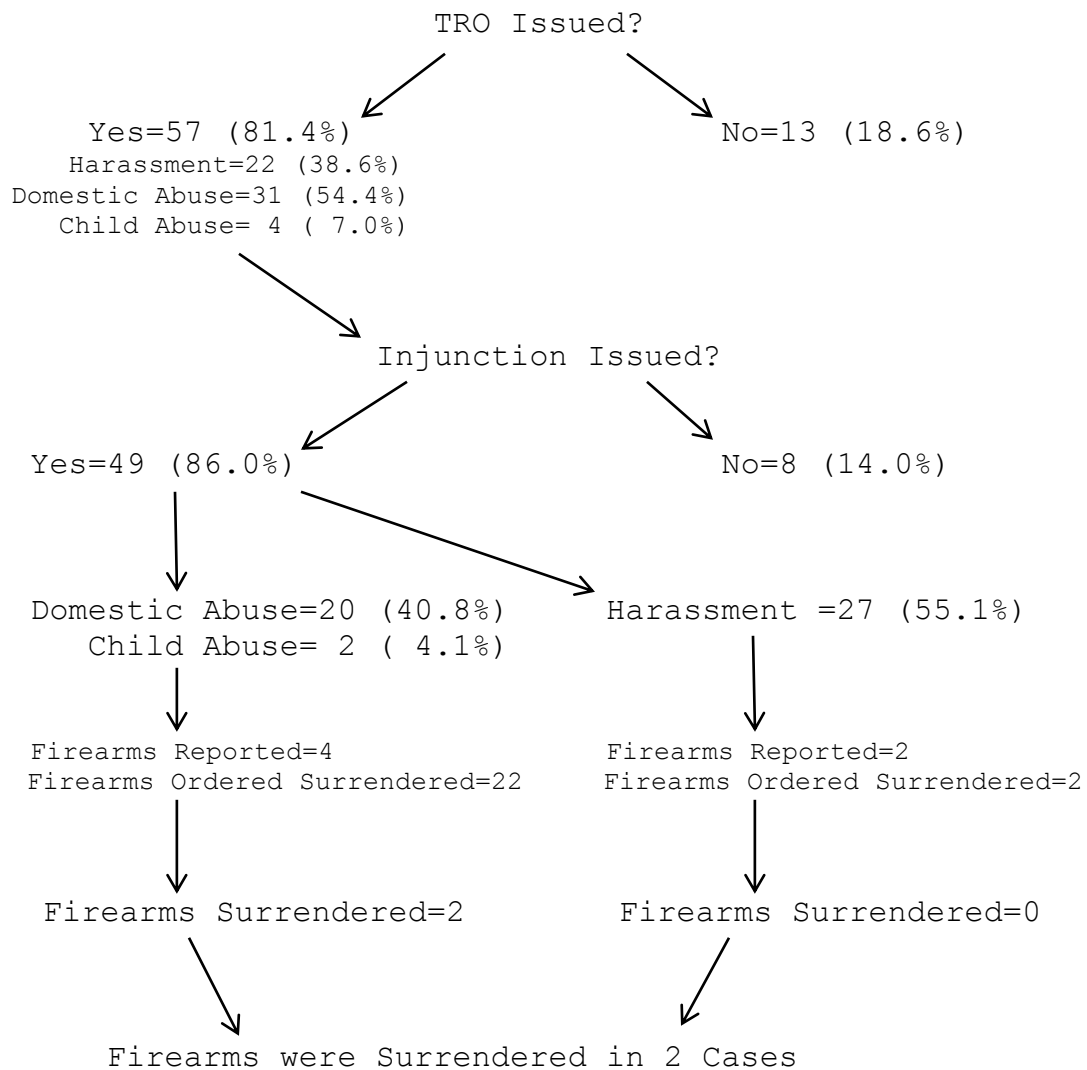
- Representatives in Sauk County reported that from January 2009 to November 2010, before the implementation of the protocol, there were 2 cases that involved the surrender of firearms (11 guns total).

Figure 4 shows how injunction cases were processed in Waushara County. From May 2010 to December 31, 2011, there were a total of 70 applications for a temporary restraining order in Waushara County. In 57 of the cases (81.4%), a TRO was granted. Most of the TROs were for domestic abuse (31; 54.4%) followed by harassment (22; 38.6%) and child abuse (4; 7.0%). An injunction was issued in 49 of the 57 (86.0%) TROs. Most injunctions were for harassment (27; 55.1%), followed by domestic abuse (20; 40.89%) and child abuse (2; 4.1%). Six of the 31 domestic abuse TROs (19.4%) were converted to harassment injunctions.

In 4 of the 22 (18.2%) domestic abuse and child abuse injunctions the petitioner and/or respondent reported that the respondent possessed firearm(s) (i.e., the petitioner and respondent reported firearms in 2 of the same cases, in the other two cases case the petitioner reported firearms but the respondent did not). In all 22 of the domestic abuse and child abuse cases, the court ordered the surrender of firearms (100.0%). Of the 27 harassment injunctions, firearms were reported in 2 of the cases (7.4%) (the petitioner and respondent both reported firearms in these 2 cases). Firearms were ordered surrendered by the court in 2 of the 27 harassment cases (7.4%).

Firearms were surrendered in 2 of the 22 domestic abuse and child abuse injunctions (9.1%) and in none of the 27 harassment injunctions. In total, 2 cases involved the actual surrender of firearms.

Figure 4. Injunction Processing in Waushara County



In addition:

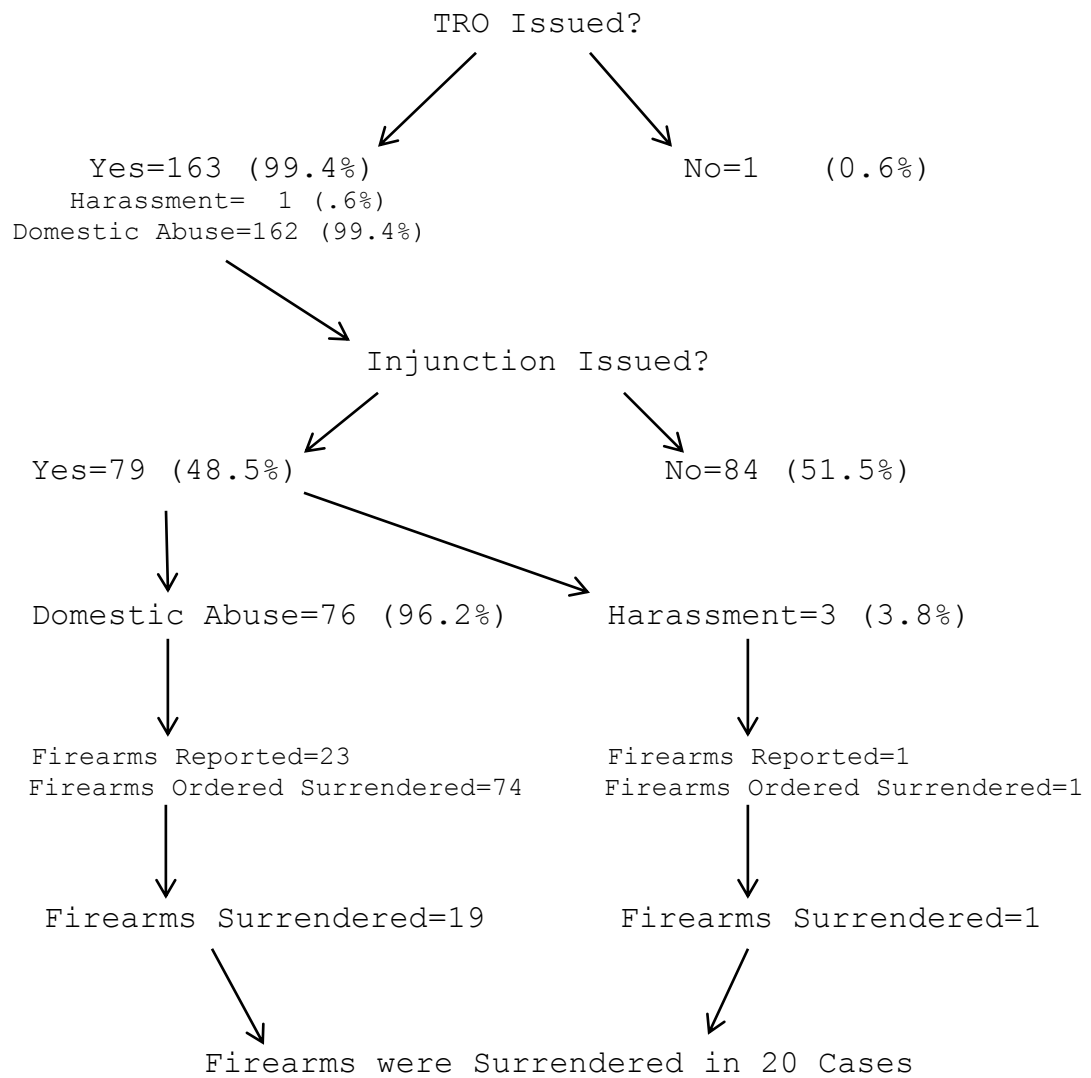
- One of the cases involved the surrender of 3 firearms (in the other case the number of firearms surrendered was not specified).
- In one case the guns were surrendered to the Waushara County Sheriff's Department. In the other case the firearm was surrendered to a third party (who was someone other than a friend or relative).
- In both cases where a firearm was surrendered, it was surrendered after the injunction hearing but before a surrender hearing. In total, 3 firearm surrender hearings were conducted (1 additional hearing was scheduled but cancelled).
- A warrant was issued in response to a failure to surrender firearms in one case.
- A Sheriff's Department deputy was present at all of the firearm surrender hearings.
- No information on guns surrendered prior to the implementation of the new procedures was available in Waushara County.

Figure 5 shows how injunction cases were processed in Winnebago County.

From February 2010 to December 31, 2011, there were a total of 164 applications for a temporary restraining order in Winnebago County. A TRO was issued in all but one case (163 out of 164 cases; 99.4%). There was one harassment TRO (.6%); the other 162 (99.4%) were for domestic abuse.

An injunction was issued in 79 of the 163 TROs that were obtained (48.5%). Again, the overwhelming majority of injunctions were for domestic abuse (76; 96.2%), there were 3 harassment injunctions (3.8%). Three of the 162 domestic abuse TROs (1.9%) were subsequently converted to harassment injunctions.

Figure 5. Injunction Processing in Winnebago County



In 23 of the 76 (30.3%) domestic abuse injunctions the petitioner and/or respondent reported that the respondent possessed firearm(s) (i.e., the respondent and the petitioner both reported respondent firearms in 14 cases; in 7 cases the petitioner reported firearms but the respondent did not; in two cases the respondent reported firearms but the petitioner did not). In 74 of the 76 domestic abuse cases, the court ordered the surrender of firearms (97.4%). Of the 3 harassment injunctions, firearms were reported in one of the cases (33.3%) (the respondent and the petitioner both reported respondent firearms in the this case). Firearms were ordered surrendered by the court in one of the 3 harassment cases (33.3%).

Firearms were actually surrendered in 19 of the 76 domestic abuse injunctions (25.0%) and in 1 of the 3 harassment injunctions (33.3%). In total, 20 cases involved the surrender of firearms.

In addition:

- Seven of the cases where firearms were surrendered resulted in the surrender of 35 guns (in the other 13 cases it was not specified how many guns were surrendered).
- Guns were surrendered to the Winnebago County Sheriff's Department in 5 of the cases, to a third party in 9 of the cases, and they were sold in 4 cases (in the other 2 cases it was not specified to whom the firearms were surrendered).
- Of the 9 cases where guns were surrendered to a third party, 2 were to a relative (in the other 7 cases the third party was not specified).
- In 4 cases, the firearm(s) were surrendered prior to the injunction hearing, in 4 cases they were surrendered after the injunction hearing but before the surrender hearing, and in 5 cases they were surrendered after the surrender hearing (in the other 7 cases it is not specified when the firearm(s) were surrendered).
- In total, 18 firearm surrender hearings were conducted (it was not specified how many surrender hearings were scheduled or cancelled

nor was it specified at how many firearm surrender hearings a law enforcement officer was present).

- A warrant was issued in response to a failure to surrender firearms in 8 cases.
- Representatives in Winnebago County reported that from January 1, 2009 to April 27, 2010 (prior to the implementation of the protocol) there was 1 case that involved the surrender of firearms (2 guns).

Discussion of Injunction and Firearm Surrender Case Data Findings

As noted earlier, the injunction and firearm surrender process is similarly structured in each of the four counties; however, there is notable variation in the number, type and disposition of cases across the counties. First, there was considerable variation across counties in the number of requested TROs. Sauk County recorded 253 requests in 13 months (a mean of 19 per month), Waushara County recorded 70 requests in 20 months (3.5 per month), Outagamie County recorded 189 requests in 12 months (16 per month), and Winnebago County recorded 164 requests in 15 months (11 per month). Considering population differences of the counties, the variation is even more striking. The reasons for this variation remain unclear.

Second, the type of TROs that were granted is fairly consistent across county except that harassment TROs were most likely to be issued in Sauk County while domestic abuse TROs were most likely issued in Winnebago County.

Third, the rate at which TROs get converted to injunctions is also quite variable across the counties. On one extreme is Waushara County where 86 percent of TROs were converted to injunctions; on the other is Sauk County and Winnebago County where 48.2 percent and 48.5 percent were converted to injunctions, respectively.

Fourth, as with the type of TROs issued, there is also variation in the type of injunctions issued. On one hand, less than 4 percent of injunctions were for harassment in Winnebago County. On the other hand, in Sauk County, 51.8 percent were for harassment and in Waushara County 55.1 percent of injunctions were for harassment. This variation is particularly noteworthy in that firearm surrender is not mandated in harassment injunctions. Not surprisingly, firearms were less frequently surrendered in harassment cases than in domestic abuse or child abuse cases. The counties that had the highest proportion of harassment injunctions also had the fewest cases that involved the surrender of firearms (see below). Also noteworthy is the variation across county in the proportion of domestic abuse TROs converted to harassment injunctions. This pattern was most prevalent in Waushara County (where 19.4% of domestic abuse TROs were converted to harassment injunctions); in the other counties less than 2 percent of domestic abuse TROs were converted to harassment injunctions. These figures illustrate the importance of judicial discretion in case processing.

Fifth, firearms were surrendered at varying rates across the four counties. In Winnebago County, firearms were surrendered in 25.3 percent of all injunctions (25% of domestic abuse injunctions, there were no child abuse injunctions). In Outagamie County, firearms were surrendered in 10.1 percent of all injunctions (14.5% of domestic abuse injunctions, there were no child abuse injunctions). In Waushara County, firearms were surrendered in 4.1 percent of all injunctions (9.1% of domestic abuse and child abuse injunctions). In Sauk County, firearms were surrendered in 3.3 percent of all injunctions (6.7% in domestic abuse and child abuse injunctions).

The actual surrender of firearms depends largely on the respondent (and or petitioner) notifying the court of the possession of firearms by the respondent. Not surprisingly, here too is variation. Where there is greater likelihood of the report of firearms there is greater frequency of firearms surrender. For example, in Winnebago County, in 30.3 percent of injunctions the petitioner or respondent (or both), reported that the respondent possessed firearms. In contrast, in 9 percent of injunctions in Sauk County the petitioner or respondent (or both) reported respondents' firearms. In Outagamie County, a firearm was reported in 11 percent of injunctions. In Waushara County, in 12.2 percent of injunctions a firearm was reported.

There is also variation across county in the rate at which firearms are surrendered when firearms are reported. Just considering domestic abuse and child abuse injunctions (where firearm surrender is mandatory), in Waushara County firearms were surrendered in 50 percent of the cases (2 of 4) where firearms were reported. In Sauk County it was 75 percent (3 of 4 cases). In Winnebago County firearms were surrendered in 82.6 percent of cases (19 of 23) where firearms were reported. In Outagamie County the percentage was 100 percent (10 of 10 cases).

Firearms surrender hearings are, of course, a function of the number of cases where firearms are actually surrendered. Winnebago County had the largest number of cases with firearms surrendered (20) as well as the largest number of firearm surrender hearings (18). Waushara County had the fewest number of cases with firearms surrendered (2) and the fewest number of firearm hearings (3). The cancellation of firearm surrender hearings was an infrequent occurrence across each of the four counties.

Finally, across the four counties combined, a total of 37 cases involved the surrender of firearms. Twenty-seven of these cases resulted in the surrender of 63 firearms (in the 10 other cases the number of guns surrendered was not specified). In 15 cases the firearms were surrendered to the local Sheriff's Department, in 15 cases the firearms were surrendered to a third party, in 5 cases the firearms were sold, and in 2 cases it was not specified to whom the firearms were surrendered.

Agency Representative Interviews

On the basis of the information collected during the interviews of agency representatives conducted in each county, implementation issues regarding the firearm surrender protocol are described here. Although there is minimal variation across counties in the firearm surrender process (as described earlier), there are exceptions; these variations are also discussed here. In addition, unexpected outcomes, perceived benefits, and the impact of the new procedures are discussed. In this discussion, individual respondents are not identified, so as to provide for a degree of anonymity. Instead, the prevailing sentiment of the respondents in each county is noted.

Variations in Protocol across Counties

Representatives in each county had the discretion to modify the firearms surrender process (and required forms) as deemed appropriate and necessary given their needs and their beliefs about what may work best. The most significant of these modifications are discussed here.

In Winnebago County, it is not required that petitioners complete the firearm disclosure form, the purpose of which is to identify whether the respondent owns/possesses firearms. The petitioner has the opportunity (but is not required) to come forward with that information. The burden is on the *respondent* to be candid about firearms owned or possessed. The expectation is that if there is a genuine concern about firearms by the petitioner, and the respondent does not disclose firearms, the petitioner will provide that information. According to agency representatives (and the case data analyses earlier), respondents actually do come forward with that information. If respondents provide this information first, then petitioners do not have to. The reasoning is that if the petitioner is not required to disclose the respondent's firearms, it may minimize conflict between the respondent and the petitioner as the respondent may not "blame" the petitioner for having to surrender his or her firearms. According to agency representatives, having the burden on the respondents to disclose possession or ownership of firearms rightfully places the focus on the actions and responsibilities of the respondent and, as a result, makes it clear to him or her that he/she has the legal obligation to disclose firearms. This focus may further put the respondent on notice that he/she is responsible for his/her actions. With regard to the "statement of firearm ownership" form completed by respondents, the form was modified to require respondents to identify the present location of the firearm(s).

Winnebago and Waushara Counties have instituted (and executed) a practice of issuing arrest warrants for respondents who fail to surrender firearms when ordered. As noted in the analysis of case data, there were eight such cases in Winnebago County and one such case in Waushara County.

With regard to surrender of a firearm to a third party, in Outagamie County a record check is conducted to verify that this third party is legally able to possess firearms, in Winnebago County sworn testimony is required from the third party that he/she is legally able to possess firearms. In Sauk and Waushara Counties, this issue has not arisen as no firearms have been surrendered to a private third party.

In Outagamie, Waushara, and Sauk Counties, a sheriff's department deputy is present in the hearing room during firearm surrender hearings. In Outagamie County, a sheriff's department deputy is present at all injunction hearings including the firearm surrender hearings. Agency representatives explained that deputy presence in the hearing room makes the petitioner and everyone else feel safer. In Outagamie County, the deputy is also responsible for collecting forms from petitioners (and respondents) prior to hearings. Similarly, Sauk County also routinely provides for the presence of security for the court. This individual meets with the petitioner (and/or respondent) prior to the hearings to collect required forms and answer questions from either of the parties.

There is variation among sheriff's departments and police departments within counties as to their policies and practices regarding the confiscation of weapons at the scene of domestic violence related incidents for purposes of safekeeping. According to agency representatives, Outagamie County Sheriff's Department (and all other police departments in the county) and Waushara County Sheriff's Department were the most likely to seize weapons at the time of a domestic violence incident for safekeeping purposes. This is a potentially important consideration because if these weapons are seized prior to the issuance of a restraining order, then there would be less of a need to inquire about the possession of firearms by the respondent and subsequently, no need to

surrender firearms later on. This practice needs to be accounted for in assessing the frequency of firearms surrendered and the effects of surrendering firearms.

Although Sauk County Sherriff's Department does not normally seize weapons at the time of a domestic violence incident, they use what is referred to as "the green slip" (again, see Appendix C). At the time deputies serve the respondent the temporary restraining order, they ask the respondent about guns he/she owns or possesses and this information is recorded on the form. This is potentially useful (and truthful) information as it collected prior to the respondent's formal legal notification of the firearm surrender requirement associated with injunction orders.

In Waushara County, sheriff's department deputies typically suggest to victims at the time of domestic violence incidents that they seek a restraining order against the offender. It is interesting to note that this practice has apparently not translated into a high level of TROs being requested in Waushara County (3.5 per month, as noted earlier), at least compared to Sauk County which had an average of 19 TRO requests per month.

In most of the counties, injunction hearings for the purpose of issuing a restraining order are presided over by a court commissioner. A judge may preside over these hearings if the court commissioner is not available. In most counties, one court commissioner presides over the overwhelming majority of hearings. In Waushara County, a judge presides over firearm surrender hearings in order to facilitate the issuance of a warrant if the respondent does not show up for the hearing.

One of the activities conducted in Outagamie County was a follow-up on all active injunctions that were issued in Outagamie County in which the respondent is

currently on probation and to inquire whether the respondent owns or possesses firearms. Specifically, a total of 44 respondents were included on the list. Injunctions for these individuals dated as far back as 2007. Probation agents for these 44 individuals were contacted and it was requested that they have their probationer complete the “statement of firearm ownership” form so as to ascertain their ownership or possession of firearms. As of October, 2011, of all the contacts made, none of the probationers stated that they owned or possessed firearms; two probationers acknowledged that the gun(s) they owned were currently maintained by a third party.

Finally, with regard to gun storage issues, when firearms are surrendered to the respective sheriff’s department, they are normally maintained as evidence and kept secured in an evidence room and/or a safe. Waushara County provides for regular cleaning of the firearms and photographs the firearms as proof of condition. Some counties (including Waushara) have considered and/or imposed a fee for the storage and maintenance of the surrendered firearms others have not. Each sheriff’s department provides slightly different paper record-keeping on the surrendered firearms which they maintain but, in accordance with the law, none maintain these records electronically.

Implementation Issues

As explained by agency representatives in each of the counties during the site visits, there have not been any major difficulties or obstacles in the implementation and operations of the firearm surrender protocol. The consensus among agency representatives was that the protocol was not nearly as difficult or as onerous as what it was first expected to be.

Although no significant barriers to implementation were highlighted by the agency representatives in any of the counties, several issues were noted. These issues are discussed here.

First, as one would expect, exceptional cases cause difficulties. For example, in one case in Winnebago County, a firearm was brought into the courthouse in order to surrender it. Winnebago County does not provide staffed security at the entrances to the courthouse. This incident led to concerns about procedures regarding the surrender of firearms and also led to Winnebago County using a portion of the project monies to purchase metal detector wands for use in their courtroom. Several other examples were highlighted regarding unique situations with regard to the respondents' ownership/possession of firearms (e.g., respondent lives in a house where there are firearms but those firearms are not owned by the respondent). These sorts of situations have required the exercise of best judgment in resolving the issue at hand.

Second, as noted, the "slip" in Sauk County is potentially a good idea as it provides separate verification of possession/ownership of firearms by the respondent; however, a couple of issues were noted with the use of the "slip." First, prior to being asked by deputies if they own firearms, respondents are told that "the paperwork being served contains information that could affect their ability to possess firearms." This may serve as warning as to the "incorrect" answer regarding their ownership of firearms. Second, agency representatives in Sauk County explained that the information from the "slip" may not find its way back to court to be used by the court commissioner (or judge) during injunction hearings when determining whether the respondent actually owns or possesses firearms.

Third, according to agency representatives in some of the counties, the early stages of the injunction process (i.e., TRO applications, hearings) may proceed more smoothly when a victim advocate is involved in the process. The victim advocate can guide and educate petitioners about the process and its requirements. Although there appears to be some variation across county as to the involvement of victim advocates in injunction cases, the exact percentage of cases where victim advocate assistance is provided is not able to be determined; however, it is was estimated by the victim advocates that approximately 30 to 40 percent of petitioners seek their assistance prior to initiating the injunction process.

Fourth, some agency representatives expressed concern about the role, background, and verification of the third party in firearm surrender. In particular, although it is a legal option available to respondents, there was concern about the security of allowing a friend or relative to maintain possession of the respondent's firearms.

Fifth, agency representatives in each of the counties, to one degree or another, expressed concerns about the collection of accurate and truthful information from respondents and petitioners about guns owned or possessed by respondents and how to best deal with situations where respondents and petitioners provided conflicting information about the respondents' possession/ownership of firearms. Agency representatives in each county perceived these issues to be weaknesses in the law; the law is written as such that the surrender of firearms is largely dependent on the truthfulness of respondents (and petitioners) about the possession of firearms and provides no clear guidance as to how to deal with conflicting information about gun possession. No clear solution to this issue was provided by agency representatives although, as noted,

Winnebago County does not require petitioners to disclose respondent's firearms. It is believed by agency representatives in Winnebago County that this practice may actually encourage more truthfulness among respondents. As discussed earlier, it is interesting to highlight that Winnebago County had the most firearms reported and the largest proportion of cases with firearms surrendered.

Sixth, coordination issues between the offices involved in the injunction and firearm surrender process was mentioned repeatedly by agency representatives as being critical to the proper implementation and execution of the firearm surrender protocol. Pre-planning, clear lines of communication, and clear delineations of responsibilities among the individuals and offices involved in the operation of the protocol was highlighted by agency representatives as being extremely important. This was particularly true with regard to communication between the court and the sheriff's department.

Finally, agency representatives repeatedly spoke of the absolutely critical role that court commissioners play in the process. The proper implementation of the protocol rests primarily with the court commissioners (and/or judges). Their discretion largely determines the process and the outcome of the case. It was suggested by agency representatives in several of the counties that court commissioners play a central role in the planning process regarding the design and implementation of the protocol. Education and training for all individuals involved in the proper implementation of the protocol/law was also viewed by agency representatives as critical.

Unexpected Results

Across the four counties, there were two major surprises: One was that the protocol was not nearly as difficult or as onerous to implement as was first expected. The other surprise was that so few firearms were surrendered after the implementation of the protocol. Interestingly, that the protocol was relatively easy to implement may be related to the fact that surprisingly few guns were surrendered. It is possible that had there been more firearms surrendered, there may have been more implementation issues.

It is fair to say that agency representatives in Sauk County and Waushara County were the most surprised by the relatively low number of firearms surrendered, less the case in Winnebago and Outagamie Counties. Recall that in Winnebago County there were 76 domestic abuse injunctions granted with 19 resulting in the surrender of firearms (25%), in Outagamie County there were 69 domestic abuse injunctions granted with 10 resulting in the surrender of firearms (14.5%), in Waushara County there were 22 domestic and child abuse injunctions granted with two resulting in the surrender of firearms (9.1%), and in Sauk County there were 45 domestic and child abuse injunctions issued with 3 resulting in the surrender of firearms (6.7%).

The infrequency with which guns were surrendered in Sauk and Waushara Counties is particularly noteworthy given the belief of agency representatives in those counties that a large share of Sauk and Waushara county households has firearms. In Sauk and Waushara Counties hunting (and gun ownership) is a large part of the culture and lifestyle. No empirically based estimation of firearm ownership by county in Wisconsin is available; however, agency representatives in these two counties estimated,

based on their own personal knowledge and experiences, that 50 percent of households in these counties had at least one firearm.⁷

This estimate begs the question: If firearm possession/ownership is so common, why is the surrender of firearms so infrequent? Agency representatives who were interviewed offered several explanations. These explanations are largely speculative as there is no direct empirical basis on which to accept or reject these possibilities.

The first explanation is the most benign: that the subset of the population who has restraining orders against them are just simply less likely than the larger population to own firearms (and hence, to be able to surrender firearms). Each of the victim advocates who were interviewed believed that the petitioners that they advised were quite honest in stating whether or not respondent owned firearms. Therefore, the fact that relatively few petitioners stated that respondents owned firearms tends to support this explanation. While no information is available as to the demographic characteristics of petitioners and respondents in this study, it is possible that the demographic characteristics of respondents differ from the demographics of typical firearms owners.

⁷ This estimation seems to be roughly in-line with research findings. In 2001 the Behavioral Risk Factor Surveillance System (BRFSS) reported the results of a national survey of gun ownership (see <http://www.washingtonpost.com/wp-srv/health/interactives/guns/ownership.html>). One of the questions asked in the study was: "Are any firearms now kept in or around your home? Include those kept in a garage, outdoor storage area, car, truck, or other motor vehicle." It was found that 44.4 percent of participating households stated that they possessed a gun. The study reported that Wisconsin had the 12th highest rate of gun ownership in the country indicating higher gun ownership levels than that reported for the country as a whole. In addition, a national survey of gun ownership study conducted by Cook and Ludwig (1997) revealed that overall about 42 percent of men and nine percent of women own a firearm in the United States. The authors explain that gun ownership was highest among middle aged (i.e., 40-64), college-educated whites from rural areas.

Another possibility is that when an abuser owns firearms, restraining orders are not as frequently pursued by the victim. As a result, if abusers own firearms they may be less likely to have restraining orders against them. In turn, the applications for a restraining order that come to the court are less likely to involve firearms. In such cases where guns are known to be owned by abusers, victims may decide to not pursue a restraining order of any sort, perhaps out of fear or intimidation, or because of the belief that if the abuser's guns are taken away he/she will be angrier and even more likely to cause harm. However, while this is a possibility, there was consensus among the victim advocates in each of the counties that this occurs in only a small percentage of cases.⁸

A third explanation is that the respondent owns firearms but harassment injunctions are sought by petitioners instead of domestic abuse (or child abuse) injunctions so as to avoid the firearm surrender requirement. Relatedly, petitioners may switch from a domestic abuse TRO to a harassment injunction when they learn that firearm surrender is a requirement with domestic abuse injunctions. As explained by the victim advocates, a petitioner may reason that a restraining order is necessary however an order to surrender firearms may actually make the situation worse -- the offender's guns may not have been involved in the abuse before, but if the guns are to be taken away, the offender may become angry and even more of a threat. For example, according to a victim advocate, one victim told her that "I don't want him to lose his hunting rifle because that will make the situation worse." According to the victim advocates, both of

⁸ In particular, in an informal survey conducted by the victim advocate in Outagamie County, only 2 of 40 victims who consulted with the victim advocate agency prior to seeking a TRO decided not to pursue an order because of the firearm surrender provision. It should be highlighted again that not all victims who sought a TRO consulted first with the victim advocate agency.

these occurrences – seeking a harassment injunction instead of a domestic abuse injunction even when the respondent owns firearms, or switching from a domestic abuse TRO to a harassment injunction -- are quite uncommon.⁹ As noted earlier, analysis of the case data also show that it was overall uncommon for a domestic abuse TRO to be converted to harassment injunction.¹⁰ Perhaps somewhat mitigating the significance of this issue is that in harassment injunction hearings, firearm surrender may still be ordered and enforced.¹¹ In addition, domestic abuse injunctions have certain advantages over harassment injunctions that may make them a more desirable (and more likely) option (e.g., domestic abuse injunctions provide for absolute no contact, there is no cost associated with a domestic abuse injunction, and a domestic abuse injunction provides for automatic extension). Nevertheless, it is not known with certainty what proportion of the harassment injunctions would have been domestic abuse injunctions if not for the firearm surrender provision.

A fourth explanation that may help account for the relatively low number of cases that involve the surrender of firearms is that petitioners may simply not disclose to the court that the respondent possesses firearms, for the same reasons as noted above (e.g., fear, intimidation, firearm is not seen as an issue). However, once again, the general

⁹ In the Outagamie County survey, with only 2 victims (out of 40) was the firearm surrender provision known to influence the type of order pursued.

¹⁰ In Waushara County there were 6 cases where a domestic abuse TRO was converted to a harassment injunction, in Sauk there was 1 case, in Winnebago County there were 6 cases, and in Outagamie County there were no such cases.

¹¹ Recall, in Waushara County no firearms were surrendered in the 27 harassment injunctions granted, in Sauk County 1 harassment injunction (out of 77) involved the surrender of firearms, in Winnebago County 1 harassment injunction (out of 3) involved the surrender of firearms, and in Outagamie County 1 harassment injunction (out of 40) involved the surrender of firearms.

sentiment among the victim advocates was that victims who go forward with domestic abuse restraining orders are honest in stating the firearms owned by the respondent.¹² Of course, for obvious reasons, respondents may wish to deceive the court as it relates to their ownership of firearms. An important factor that may mitigate the frequency of this deception is that respondents are required to respond to the firearm surrender order in court under oath. Deception under oath has legal consequences. Nevertheless, the extent to which this deception occurs is unknown.

Finally, agency representatives also highlighted the possibility that respondents who own firearms may get rid of (or hide) their guns, or make other sorts of arrangements, before the firearms would be ordered surrendered. This arrangement could perhaps be part of an agreement with the petitioner who would then not to disclose that the respondent owns firearms. Agency representatives did not know of any specific cases where this occurred, but simply offered it has a possible explanation.

Benefits of the New Procedures for Victims

Upon first glance, one may think that benefits of the new firearm surrender procedures for victims depend on the actual surrender of firearms. If there are few firearms surrendered, there may be few benefits. This reasoning, however, is not necessarily valid. Agency representatives in each county explained that independent of the actual surrender of firearms, the protocol requires much greater scrutiny on guns and gun ownership compared to prior to the implementation of the protocol. This greater legal attention on firearms may put respondents on notice. The respondent may

¹²In the previously referenced survey of petitioners in Outagamie County, all of the petitioners stated that they were honest in completing the firearm possession form.

understand that if he/she causes additional problems, his/her behavior (and his/her guns) may come under even greater scrutiny. In this sense, the protocol focuses the attention of petitioners, respondents, court commissioners, judges, and the police on the role and importance of firearms in IPV and injunctions. Simply stated, for everyone involved, with the protocol in place, guns are now recognized and understood as an important issue. If for this reason alone, the consensus among agency representatives is that following the law is beneficial and positive.

In addition, agency representatives and victim advocates recognized and appreciated the value of even one gun being removed from the hands of an abuser. As explained by the victim advocates, one gun may translate into one or more lives saved. Victim advocates in each of the counties were very supportive of the protocol and, based on comments received from victims, thought that the new procedures made victims feel safer and enhanced their actual safety. The attention given to firearms and the surrender of firearms gives victims peace of mind.

Further, the firearm surrender law and how it is structured within the larger injunction process may empower victim petitioners and allow them more discretion and control. In other words, with the protocol, victims still have discretion as to how to proceed with the injunction. Victims, being fully informed as to the process and the firearm surrender provision, can decide whether or not to file for an injunction and decide what type of injunction to request. Even if a victim pursues a harassment injunction to avoid gun surrender, it will likely be better than no injunction at all. If petitioners did not have discretion to choose which type of injunction to pursue, they may not pursue any injunction at all. Practically speaking, with the protocol, the victim also has discretion as

whether to report the possession (and/or ownership) of firearms by the respondent. While this discretion can be portrayed as a loophole or as a weakness in the structure of the law, it can also be thought of as a desirable feature of the process. As explained by

Humphries (2002):

Policymakers should recognize that victim control is a core policy issue, which originates from the unique character of intimate violence. Batterers have on-going, private access to intimate partners, and they use fear and intimidation to keep partners in the relationship. It stands to reason, then, that women's experiences with violence would make their assessments of danger more accurate than would the automatic responses of a police officer (or other official) (p. 91).

As was noted by several victim advocates, the injunction can be thought of as one part of a safety plan, reporting the possession of firearms by the respondent may be another part of a plan. There may be good reason why the petitioner would wish to avoid firearm surrender. If the firearm has not been relevant in the "fear and intimidation" process or in the actual abuse, the firearm may be irrelevant in the mind of the victim. An order to surrender the firearm may make that firearm more relevant, as it may make the respondent angrier and even more of a threat. Simply stated, the injunction process and the firearm surrender protocol allow for victim discretion and this may be a good thing.

At the same time, respondents may see the threat of firearm surrender as a meaningful sanction, perhaps even more meaningful than the injunction itself. Even the *possibility* of having to surrender firearms may be significant enough to induce the respondent's compliance with the injunction. Again, the law may empower the victim as he/she can control, to some degree, firearm possession by the respondent. The fact that the victim has the ability to report a firearm, even if he or she does not, may represent a significant benefit of the new procedures.

A final benefit highlighted by agency representatives in Sauk County and Outagamie County was that the presence of law enforcement personnel in court during injunction and firearm hearings (and in the courthouse parking lot) provided a sense of safety to victims. Agency representatives believed, based on petitioners' comments, that law enforcement presence significantly enhanced the safety (and perceptions of safety) of petitioners.

Workload Demands as a Result of Firearm Surrender Procedures

What are the costs associated with implementing and operating the firearm surrender protocol? This question was addressed to agency representatives in each of the counties. In general, as noted earlier, the implementation and operation of the protocol was relatively problem-free and the costs were minimal. Specifically, agency representatives in Winnebago County explained that no additional time is required in the injunction hearings as a result of the new procedures. If firearms are ordered to be surrendered, the court schedules an additional 5 minute hearing. Recall, in Winnebago County there was a total of 18 firearm surrender hearings (from October 2010 to December 2011). As for costs, they have been able to add these hearings to the existing duties of the salaried court commissioner, so there are no additional court costs for the hearings. In addition, it was noted that approximately \$100 per year is spent on the new additional forms pertaining to firearms. No additional costs were reported by the sheriff's department.

According to agency representatives in Sauk County, the new procedures do not require any additional time in the injunction hearings. If a firearm surrender hearing is

necessary, that hearing would normally take approximately 30 minutes, more if numerous weapons were being surrendered. Recall, in Sauk County there was a total of four firearm surrender hearings (from December 2010 to December 2011). The presences and responsibilities of court security personnel prior to (and during) hearings does not add a significant amount of time to the procedures. No additional time is required with regard to serving papers to respondents. As for the other costs, minimal costs were reported, with photocopying of required forms being the most significant. With surrendered firearms stored at the sheriff's department, no additional storage costs are incurred.

Agency representatives in Waushara County reported that the new procedures take about five additional minutes in court. No details on the costs of the project to the court and sheriff's department were provided.

According to agency representatives in Outagamie County, the new procedures add several minutes to each injunction hearing. The most significant cost associated with the new procedures involves the presence of a sheriff's department deputy at each of the hearings. This is a service that was not provided prior to the implementation of the new procedures. No additional meaningful costs were reported by the court or the sheriff's department.

What Could be Done to Improve Firearms Surrender?

Because every policy has unknown and unexpected outcomes, it is difficult and sometimes dangerous to offer recommendations for change, especially when the issue at hand is as critical as intimate partner violence. Offered here are four considerations as to

the improvement of the firearm surrender protocol. These considerations were brought to light as a result of discussions with agency representatives in each of the counties.

First, procedures should be put into place to further encourage victims (i.e., would-be petitioners) to seek the assistance of the local victim advocacy agency prior to initiating the injunction application process. It is unknown what proportion of petitioners actually seek the assistance of the victim advocacy agencies but in no county was it estimated by agency representatives to be more than 50 percent. Victim advocates can play an indispensable and invaluable role in the injunction process. They can educate victims as to the options available, help petitioners make well-informed decisions, and assist petitioners in navigating the injunction and firearm surrender process. Victim advocates can serve as a valuable resource to a victim in need. Accordingly, at domestic violence related incidents, all police officers should, by policy, inform victims of the local county victim advocacy agency and strongly encourage victims to use their services. Representatives at the clerk of courts office in each county should also, by matter of policy, inform petitioners of the local county victim advocacy agency and encourage victims to use their services.

Second, information on the possession and ownership of firearms by respondents from sources other than the petitioner and respondent could be valuable in the firearm surrender process. Independent information to verify the possession/ownership of firearms may help deal with situations where there is conflicting information from petitioners and respondents about the possession of firearms and may lead to the surrender of more firearms. Law enforcement may be in the best position to collect this information; however, inquiries about (and searches for) respondents' firearms may also

increase dangers to officers, so it is important to proceed with caution in this regard. The use of the “slip” in Sauk County is notable in its simplicity and its potential usefulness in collecting such information. Recall, when Sauk County Sheriff’s Department deputies provide notification of a TRO to the respondent, they ask the respondent if he/she owns any firearms, and the “slip” is completed accordingly. This notification and inquiry by the sheriff’s department may be done with such little warning that the respondent may not be prepared to be deceptive in their response. As noted by agency representatives in Sauk County, the problem is that the information on the “slip” does not always find its way back to the court to be considered by the court commissioner (or judge) in the injunction hearing. It is suggested that counties consider using the “slip,” and institute a process whereby the resulting information is always available to the court during injunction hearings. In addition, upon serving notification to respondents about the TRO and injunction hearing, deputies should inquire about firearm ownership/possession prior to notifying respondents of the firearm surrender requirement associated with injunctions.

Third, agency representatives in one county explained that knowledge among petitioners and respondents about storage fees and destruction of guns may have a further “chilling effect” on the willingness to acknowledge and surrender firearms. In this light, agency representatives may wish to not charge fees associated with firearm surrender storage.

Finally, much of the firearm surrender provision is designed to separate respondents from the guns that they currently own or possess. To provide for a greater level of confidence that respondents are not going to possess guns in the future, more attention should be directed toward keeping guns out of the hands of respondents. In this

regard, the option to surrender firearms to a friend or relative is questionable. At the very least, it is probably fair to say that a respondent's access to his firearms is easier (less secure) if surrendered to a friend or relative than if the firearms are surrendered to a law enforcement agency. Lawmakers may wish to consider the necessity and usefulness of the third party option in the firearm surrender provision. Moreover, legislation that prohibits the purchase and sale of firearms to an individual who is subject to a restraining order may be worth consideration and debate. Recent research indicates that laws to restrict firearm purchase for respondents subject to restraining orders are associated with a 10 percent reduction in rates of intimate homicide of women and a 13 percent reduction in rates of intimate homicide of women involving firearms (Vigdor and Mercy, 2006). However, of course, such laws are only effective in reducing intimate partner homicides in states that have implemented such laws.

Summary

This report documents the implementation of the State of Wisconsin firearm surrender protocol in Outagamie, Sauk, Waushara, and Winnebago counties. Injunction case data were analyzed to examine case processing patterns and outcomes. Interviews were conducted with representatives of agencies in each county who were responsible for implementation of the protocol. Overall, it was found that there were no major or consistent implementation difficulties with the protocol across the counties. In fact, agency representatives explained that the protocol was not nearly as difficult to implement as was first expected. Agency representatives were also surprised by the relative low frequency by which firearms were actually surrendered after the

implementation of the protocol; this was particularly the case in Sauk and Waushara counties. Again, in Winnebago County there were 76 domestic abuse injunctions granted with 19 resulting in the surrender of firearms (25%), in Outagamie County there were 69 domestic abuse injunctions granted with 10 resulting in the surrender of firearms (14.5%), in Waushara County there were 22 domestic and child abuse injunctions granted with 2 resulting in the surrender of firearms (9.1%), and in Sauk County there were 45 domestic and child abuse injunctions issued with 3 resulting in the surrender of firearms (6.7%). Numerous explanations were discussed that may account for these frequencies.

Agency representatives and victim advocates believed that the removal of firearms from even one abuser is a significant outcome and further, that the benefits of firearm surrender are not limited to the surrender of firearms. Agency representatives in each county explained that the protocol requires greater scrutiny on guns and gun ownership among respondents. This greater legal attention on firearms may put the respondent on notice. For everyone involved, with the protocol in place, firearms are now recognized and understood as an important issue. With the protocol in place, there is now follow-up on the surrender of firearms. In addition, the protocol may empower victim petitioners and allows them discretion and control. As explained by agency representatives, the benefits of the protocol come with relatively few costs. The new procedures require minimal court time and no additional significant costs to law enforcement. Overall, the consensus among agency representatives and victim advocates is that enforcement of the law via the protocol is beneficial and positive.

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Appendix A

Relevant Wisconsin State Statute excerpts:

With regard to domestic abuse restraining orders 813.12 (4m):

(4m) NOTICE OF RESTRICTION ON FIREARM POSSESSION; SURRENDER OF FIREARMS.

(a) An injunction issued under sub. (4) shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. [941.29](#).

2. Except as provided in par. (ag), require the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner. The judge or circuit court commissioner shall approve the person designated by the respondent unless the judge or circuit court commissioner finds that the person is inappropriate and places the reasons for the finding on the record. If a firearm is surrendered to a person designated by the respondent and approved by the judge or circuit court commissioner, the judge or circuit court commissioner shall inform the person to whom the firearm is surrendered of the requirements and penalties under s. [941.29 \(4\)](#).

(ag) If the respondent is a peace officer, an injunction issued under sub. (4) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(am)

1. When a respondent surrenders a firearm under par. (a) 2. to a sheriff, the sheriff who is receiving the firearm shall prepare a receipt for each firearm surrendered to him or her. The receipt shall include the manufacturer, model and serial number of the firearm surrendered to the sheriff and shall be signed by the respondent and by the sheriff to whom the firearm is surrendered.

2. The sheriff shall keep the original of a receipt prepared under subd. 1. and shall provide an exact copy of the receipt to the respondent. When the firearm covered by the receipt is returned to the respondent under par. (b), the sheriff shall surrender to the respondent the original receipt and all of his or her copies of the receipt.

3. A receipt prepared under subd. 1. is conclusive proof that the respondent owns the firearm for purposes of returning the firearm covered by the receipt to the respondent under par. (b).

4. The sheriff may not enter any information contained on a receipt prepared under subd. 1. into any computerized or direct electronic data transfer system in order to store the information or disseminate or provide access to the information.

(aw) A sheriff may store a firearm surrendered to him or her under par. (a) 2. in a warehouse that is operated by a public warehouse keeper licensed under ch. 99. If a sheriff stores a firearm at a warehouse under this paragraph, the respondent shall pay the costs charged by the warehouse for storing that firearm.

(b) A firearm surrendered under par. (a) 2. may not be returned to the respondent until a judge or circuit court commissioner determines all of the following:

1. That the injunction issued under sub. (4) has been vacated or has expired and not been extended.

2. That the person is not prohibited from possessing a firearm under any state or federal law or by the order of any federal court or state court, other than an order from which the judge or circuit court commissioner is competent to grant relief.

(c) If a respondent surrenders a firearm under par. (a) 2. that is owned by a person other than the respondent, the person who owns the firearm may apply for its return to the circuit court for the county in which the person to whom the firearm was surrendered is located. The court shall order such notice as it considers adequate to be given to all persons who have or may have an interest in the firearm and shall hold a hearing to hear all claims to its true ownership. If the right to possession is proved to the court's satisfaction, it shall order the firearm returned. If the court returns a firearm under this paragraph, the court shall inform the person to whom the firearm is returned of the requirements and penalties under s. [941.29 \(4\)](#).

With regard to child abuse restraining orders 813.122 (5m) (a):

(5m) NOTICE OF RESTRICTION ON FIREARM POSSESSION; SURRENDER OF FIREARMS.

(a) An injunction issued under sub. (5) shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. [941.29](#).

2. Except as provided in par. (ag), require the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner. The judge or circuit court commissioner shall approve the person designated by the respondent unless the judge or circuit court commissioner finds that the person is inappropriate and places the reasons for the finding on the record. If a firearm is surrendered to a person designated by the respondent and approved by the judge or circuit court commissioner, the judge or circuit court commissioner shall inform the person to whom the firearm is surrendered of the requirements and penalties under s. [941.29 \(4\)](#).

(ag) If the respondent is a peace officer, an injunction issued under sub. (5) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

With regard to harassment restraining orders 813.125 (4m) (a):

(4m) RESTRICTION ON FIREARM POSSESSION; SURRENDER OF FIREARMS.

(a) If a judge or circuit court commissioner issues an injunction under sub. (4) and the judge or circuit court commissioner determines, based on clear and convincing evidence presented at the hearing on the issuance of the injunction, that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the judge or circuit court commissioner may prohibit the respondent from possessing a firearm.

Appendix B

Email to victim advocates requesting the collection of data from victims

My name is Steve Brandl. I am a professor in the criminal justice department at UW Milwaukee. I have been hired by the State of Wisconsin, Office of Justice Assistance, to conduct an evaluation of the Firearms Surrender Demonstration Project that is being implemented in Sauk, Waushara, Outagamie, and Winnebago Counties. As part of the evaluation and in consultation with OJA, it is critically important that I collect and include in the evaluation report information on the perceptions and experiences of petitioners and the perceptions and experiences of victim advocates with regard to the firearms surrender process. Of course, this information is most important because these new procedures are ultimately about improving the lives of victims.

To this end, I am respectfully requesting that you, as victim service providers, collect some information from petitioners about their experiences and perceptions of the new firearms surrender process. Given the resource constraints on the evaluation and the sensitive and confidential nature of these data, it would be most wise, efficient, and effective if you as the victim service providers can glean this information from your clients, instead of me attempting to conduct interviews with them. Later in the summer I will be conducting site visits to the four counties and at that time I would like to meet with each of you to discuss your perceptions of the firearm surrender process as well as what you have learned from the petitioners as a result of your work with them.

What follows here is a list of the things that would be most useful to know with regard to the perceptions and experiences of petitioners in the process:

- In general, how are the new procedures impacting victims/petitioners?
- How are petitioners informed of the new firearm surrender procedures?
- How often is it that petitioners decide not to file because of the new firearms surrender procedures?
- How often do petitioners request a dismissal of the injunction or do not come back to the injunction hearing because of an order to surrender firearms?
- How often do petitioners request a harassment injunction rather than a DV injunction so as to avoid the order to surrender firearms? What sort of factors are most often considered by petitioners in making this decision? Is the order to surrender firearms one of them?
- To what extent are petitioners being honest in disclosing the possession of firearms by the respondent (your assessment of their likely honesty)?
- How often do petitioners come back to court and request a dismissal of an injunction issued prior to the implementation of the new procedures?
- To what extent do petitioners feel safer after the issuance of a protection order? To the

extent that they feel safer, to what extent is because of the firearms surrender provision?

I understand that collecting this specific information on each individual case may pose some logistical difficulties. If this cannot be done then I am interested in overall frequencies of how often these issues arise and the general extent to which they occur. Like I said, later in the summer I would like to meet with each of you and we can discuss what you have learned with regard to these issues. Does this make sense and is it reasonable? Is there anything else that we should be asking?

Should you have questions or comments regarding the evaluation, please feel free to email me (sgb@uwm.edu) or call (262.628.8170 home, 414.229.5443 office). Alternatively, if you have other questions, you may contact Danielle Basil Long, Community Services Specialist, Office of Justice Assistance at (414) 750-7381.

Please acknowledge that you have received this email.

Thank you very much. I look forward to meeting each of you.

Steve

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Appendix C

The “slip” used in Sauk County

Serving Officer Please Inform Respondent of Following:

It is very important that they attend the TRO/Injunction Hearing on the date indicated by the court.

The paperwork being served contains firearm information that could affect their ability to possess firearms.

That they MUST fill out firearm information and bring it, along with 4 copies to court.

If surrendering firearms to a 3rd party the MUST bring the 3rd party with them to court.

DOES THE RESPONDENT OWN FIREARMS? _____ YES _____ NO
HOW MANY? (APPROXIMATELY) _____